

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA)	Criminal No: CR-H-94-58
)	
v.)	
)	
GLAZIER FOODS CO.,)	[filed 4/26/94]
)	
Defendant.)	

**GOVERNMENT'S RESPONSE TO DEFENDANT GLAZIER FOODS
COMPANY'S MOTION FOR DISCOVERY OF EXCULPATORY EVIDENCE**

The United States of America, through its attorneys, hereby responds to Defendant Glazier Foods Company's Motion for Discovery of Exculpatory Evidence (hereinafter "Motion").

Because this case bears a substantial similarity to United States v. John J. Johnson, No. CR-H-92-152 (S.D. Tex.), in which Glazier Foods's counsel represented Mr. Johnson, Defendant Glazier Foods Company effectively has in its possession any and all Brady material. As defense counsel was advised of by letter dated April 5, 1994 (attached as Exhibit A), the government does not intend to duplicate the production of Brady material disclosed in the Johnson case. Should the government identify additional Brady material, it will produce it to the defendant no later than three days before trial, as it did in the Johnson case.

Any Brady material that is contained within a Jencks Act statement not previously disclosed does not need to be produced until the Jencks material is turned over to the defense. United States v. Scott, 524 F.2d 465, 467-68 (5th Cir. 1975) ("the rule announced in Brady is not a pretrial remedy and was not intended to override the mandate of the Jencks Act"). The government will provide any such Brady material at the time previously undisclosed Jencks statements are produced, three days before trial.

Any additional material sought by Defendant's Motion is not within the scope of Brady or is already available to him. To the extent that the defendant requests additional material beyond the scope of Brady, his motion should be denied.

Respectfully submitted,

"/s/"

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Antitrust Division

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CERTIFICATE OF SERVICE

This is to certify that true and correct copy of the foregoing Government's Response to Defendant Glazier Foods Company's Motion for Discovery of Exculpatory Evidence and proposed order has been served upon and was sent via Certified Mail-Return Receipt Requested this 25th day of April, 1994, to:

Joel M. Androphy, Esq.
Berg & Androphy
3704 Travis Street
Houston, Texas 77002

"/s/"

JANE E. PHILLIPS
Attorney

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O R D E R

Upon consideration of the Defendant Glazier Foods
Company's Motion for Discovery of Exculpatory Evidence and
Government's Response,

The Defendant's Motion is hereby DENIED.

DONE AND ENTERED THIS _____ day of _____, 1994.

UNITED STATES DISTRICT JUDGE